From-WOLFF\*DINAPOLI

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T-483 P.004

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| O 1 P E 7004   | GE III  |                   |                                  |                        | <u> </u>    |  |
|--|---|-------------------|----------------------------------|------------------------|-------------|--|
| NOV 18 2004  | DECLAR  | RATION            | AND POWER OF                     | Attorney Docket Number | er 3801P098 |  |
| Per Light  | ATTORNEY FOR PATENT APPLICATION (37 CFR 1.63) |                   | First Named Inventor Brian Grove |                        |             |  |
| MADEMA   |   |                   | COMPLETE IF KNOWN                |                        |             |  |
|  |   |                   |                                  | Application Number     | 10/750,052  |  |
| Declaration Submitted With Initial  Declaration Submitted oR With Initial Filling (surcharge |   | Filing Date       | December 30, 2003                |                        |             |  |
|  | OR  | Fillng (surcharge | Art Unit                         | ТВА                    |             |  |
|  | Filing  |                   | (37 CFR 1.16(e))<br>required)    | Examiner Name          | ТВА         |  |

# As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below, next to my name.

I believe I am the original and first inventor (if only one name listed below) or an original and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

| Method and System to Adjust a Seller Fixed Price | Offer           |
|--|-----------------|
| Method and System to Adjust a Sener Pixed Pixed  | J               |
|  |                 |
|  |                 |
|  |                 |
|  |                 |
| (Title of the Invention)                         |                 |
| the specification of which                       |                 |
| is attached hereto.                              |                 |
| OR   |                 |
| ✓ was filed on (if applicable):                  |                 |
| 12/30/2003 as United States Application Number   | 10/750,052      |
| PCT International Application Number             | (if applicable) |

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above.

I do not know and do not believe that the claimed invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application. I do not know and do not believe that the claimed invention was in public use or on sale in the United States of America more than one year prior to this application, nor do I know or believe that the invention has been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to this application.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, or inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

#### Prior Foreign Application(s):

| Prior Foreign Application<br>Number(s) | Country | Foreign Filing Date<br>(MM/DD/YYYY) | Priority<br>Not Claimed | Certified Copy<br>Attached? |
|--|---------|-------------------------------------|-------------------------|-----------------------------|
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith.

| Direct all co | rrespondence to:                   | Customer Nu              | mber   | 08791          | or 🛛 | Corresponde | nce address below |
|---------------|------------------------------------|--------------------------|--------|----------------|------|-------------|-------------------|
| Name          | Andre M. Gibbs<br>Blakely, Sokolot | s<br>ff, Taylor & Zafman | LLP    |                |      |             |                   |
| Address       | 12400 Wilshire                     | Boulevard, 7th Floo      | r      |                |      |             |                   |
| City          | Los Angeles                        |                          | State  | California     |      | Zip Code    | 90025             |
| Country       | USA                                | Tel                      | ephone | (408) 720-8300 |      | Fax         | (408) 720-8383    |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| NAME OF SOLE        | OR FIRST INVENTOR: A                      |                      | peen filed for this und       | lersigned inventor           |  |  |  |  |
|---------------------|---|----------------------|-------------------------------|------------------------------|--|--|--|--|
| Full Name:          |   | Brian Grove          |                               |                              |  |  |  |  |
| Inventor's Signatur |   | y], Family Name<br>• | (or Surname), and Suffix Date | (if any])<br><b>Z3   0 Y</b> |  |  |  |  |
| Residence San       | Jose, California USA                      |                      | Citizenship                   | US A                         |  |  |  |  |
| Mailing Address     | (City , State, Country) 905 Baylcaf Court | 6064                 | BURNBANK                      | PLACE                        |  |  |  |  |
|                     | San Jose, California 95128 USA            |                      |                               |                              |  |  |  |  |
|                     | 95120                                     |                      |                               |                              |  |  |  |  |

Docket No. 3801P098

-2-

| NAME OF SECOND INVENTO                | R: A petition has be                   | een filed for this unders                    | igned inventor     |  |  |  |
|---------------------------------------|--|--|--------------------|--|--|--|
| James<br>Tal Marian                   |  |  |                    |  |  |  |
| Full Name:                            | (First, Middle [if any], Famil         | Zak Edson                                    | Co. I.C. 1         |  |  |  |
| Inventor's Signature                  | le Element                             |  | 9/23/04            |  |  |  |
| Residence Campbell, Californ          |  | Citizenship                                  | U.S.A<br>(Country) |  |  |  |
| Mailing Address 58 Waterfor           | •                                      |  | (Country)          |  |  |  |
|                                       | California 95008 USA                   |  |                    |  |  |  |
|                                       |  |  |                    |  |  |  |
| NAME OF THIRD INVENTOR:               | ☐ A petition has b                     | een filed for this unders                    | signed inventor    |  |  |  |
| Full Name:                            |  | Steve Grove                                  |                    |  |  |  |
|                                       | (First, Middle [if any], Famil         |  | uffix [if any])    |  |  |  |
| Inventor's Signature                  | <u></u>                                | Date <u>O</u>                                | 1125/09            |  |  |  |
| Residence San Jose, Califor           | nia TISA .                             | Citizenship                                  | USA                |  |  |  |
|                                       | ity , State, Country)                  | OldZeli3hip                                  | (Country)          |  |  |  |
| Mailing Address 902 El Rio I          | Drive                                  |  |                    |  |  |  |
| -                                     | alifornia 95125 USA                    |  |                    |  |  |  |
| NAME OF FOURTH INVENTO                | ·                                      | een filed for this unders<br>w Leigh Sandler | signed inventor    |  |  |  |
|                                       | (First, Middle [if any], Fami          | y Name (or Surname), and S                   | uffix [if any])    |  |  |  |
| Inventor's Signature                  |  | Date   |                    |  |  |  |
| Residence San Jose, Califor           |  | Citizenship                                  | USA<br>(Country)   |  |  |  |
| ·                                     | ity , State, Country)                  |  | (Country)          |  |  |  |
| · · · · · · · · · · · · · · · · · · · | ire Avenue, Apt. 5 alifornia 95125 USA |  |                    |  |  |  |
| <u> </u>                              | amoina 73123 USA                       |  |                    |  |  |  |
| NAME OF FIFTH INVENTOR: Full Name:    |  | een filed for this under                     | -                  |  |  |  |
| lavanhada <b>S</b> iana kara          | (First, Middle [if any], Fami          | •  | ujjix [ij any])    |  |  |  |
| Inventor's Signature                  |  | Date   |                    |  |  |  |
| Residence                             |  | Citizenship                                  |                    |  |  |  |
|                                       | ity . State, Country)                  |  | (Country)          |  |  |  |
| Mailing Address                       |  |  |                    |  |  |  |
|                                       |  |  |                    |  |  |  |
| Docket No. 3801P098                   | -3-                                    |  |                    |  |  |  |

From-WOLFF\*DINAPOLI

Title 37, Code of Federal Regulations, Section 1.56 Duty to Disclose Information Material to Patentability.

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office Is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information, which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:
  - (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filling or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
  - (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
  - It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (II) Asserting an argument of patentability.

A prima facle case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
  - (1) Each inventor named in the application;
  - Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of



#### Appendix A

I hereby appoint with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith, BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, a firm including: Raj V. Abhyanker, Reg. No. 45,474; William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42.261; Vincent H. Anderson, Reg. No. 54,962; Anthony H. Azure, Reg. No. 52,580; W. Thomas Babbitt, Reg. No. 39,591; Jordan M. Becker, Reg. No. 39,602; Todd M. Becker, Reg. No. 43.487; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Cory G. Claassen, Reg. No. 50,296; Thomas M. Coester, Reg. No. 39,637; Mimi D. Dao, Reg. No. 45,628; Stephen M. De Klerk, Reg. No. 46,503; Daniel M. De Vos, Reg. No. 37,813; Elena B. Dreszer, Reg. No. 55,128; Sanjeet Dutta, Reg. No. 46,145; Nathan P. Elder, Reg. No. 55,150; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; Adam Furst, Reg. No. 51,710; Angelo J. Gaz, Reg. No. 45,907; Andre M. Gibbs, Reg. No. 47,593; James Y. Go, Reg. No. 40,621; Jason R. Graff, Reg. No. 54,134; Arlen M. Hartounian, Reg. No. 52,997; Jeffery Scott Heileson, Reg. No. 46,765; James A. Henry, Reg. No. 41,064; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; Aslam A. Jaffery, Reg. No. 51,841; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Mark A. Kupanoff, Reg. No. 55,349; Steven Laut, Reg. No. 47,736; Suk S. Lee, Reg. No. 47,745; Gordon R. Lindeen III, Reg. No. 33,192; Jan Carol Little-Washington, Reg. No. 41,181; Joseph Lutz, Reg. No. 43,765; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. 48,095; Paul A. Mendonsa, Reg. No. 42,879; Jonathan S. Miller, Reg. No. 48,534; Heather M. Molleur, Reg. No. 50,432; Richard A. Nakashima, Reg. No. 42,023; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Philip A. Pedigo, Reg. No. 52,107; Marina G. Portnova, Reg. No. 45,750; Jon C. Reali, Reg. No. 54,391; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Kevin G. Shao, Reg. No. 45,095; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Edwin H. Taylor, Reg. No. 25,129; Lisa Tom, Reg. No. 52,291; Mark C. Van Ness, Reg. No. 39,865; Thomas A. Van Zandt, Reg. No. 43,219; Mark R. Vatuone, Reg. No. 53,719; Lester J. Vincent, Reg. No. 31,460; John P. Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; Chui-Kiu Teresa Wong, Reg. No. 48.042; and Norman Zafman, Reg. No. 26,250, my patent attorneys, and Chze Koon Chua, 53,831; Brent Vecchia, Reg. No. 48,011 and Lehua Wang, Reg. No. 48,023, my patent agents, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800; and James R. Thein, Reg. No. 31,710, my patent attorney, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

## **DECLARATION AND POWER OF** ATTORNEY FOR PATENT APPLICATION (37 CFR 1.63)

Declaration Submitted with Initial Filing

Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16(e)) required)

| Attorney Docket Numb | per 3801P098      |  |  |  |
|----------------------|-------------------|--|--|--|
| First Named Inventor | Brian Grove       |  |  |  |
|                      | COMPLETE IF KNOWN |  |  |  |
| Application Number   | 10/750,052        |  |  |  |
| Filing Date          | December 30, 2003 |  |  |  |
| Art Unit             | TBA               |  |  |  |
| Examiner Name        | TBA               |  |  |  |

#### As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below, next to my name.

I believe I am the original and first inventor (if only one name listed below) or an original and joint inventor (If plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

| Method and System to Adjust a Seller Fixed Price  | Offer           |
|---|-----------------|
|   |                 |
| (Title of the Invention)  | A               |
| e specification of which  |                 |
| ☐ is attached hereto.   |                 |
| OR  |                 |
| ☑ was filed on (if applicable):   |                 |
| or <u>12/30/2003</u> as United States Application Number PCT International Application Number | 10/750,052      |
| and was amended on  | (if applicable) |

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above.

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#### Prior Foreign Application(s):

| Prior Foreign Application<br>Number(s) | Country | Foreign Filing Date<br>(MM/DD/YYYY) | Priority<br>Not Claimed | Certified Copy<br>Attached? |
|--|---------|-------------------------------------|-------------------------|-----------------------------|
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |
|  |         |                                     |                         | ☐ Yes ☐ No                  |

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith.

| Direct all correspondence to: |                                   | 🛛 . Customer Nu          | mber   | 08791          | or 🔀 ( | Corresponde | nce address below |
|-------------------------------|-----------------------------------|--------------------------|--------|----------------|--------|-------------|-------------------|
| Name                          | Andre M. Gibbs<br>Blakely, Sokolo | s<br>ff, Taylor & Zafman | LLP    |                |        |             |                   |
| Address                       | 12400 Wilshire                    | Boulevard, 7th Floo      | or .   |                |        |             |                   |
| City                          | Los Angeles                       |                          | State  | California     |        | Zip Code    | 90025             |
| Country                       | USA                               | Tel                      | ephone | (408) 720-8300 |        | Fax         | (408) 720-8383    |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| NAME OF SOLE                       | OR FIRST INVENTOR:        | A petition has been filed for this            | undersigned inventor |
|------------------------------------|---------------------------|---|----------------------|
| Full Name:                         |                           | Brian Grove                                   |                      |
|                                    | (First, Middi             | le [if any], Family Name (or Surname), and Su | ffix [if any])       |
| Inventor's Signatu                 | re                        | Date  |                      |
| Residence San Jose, California USA |                           | Citizenship                                   | USA                  |
|                                    | (City , State, Coun       | ury)  | (Country)            |
| Mailing Address                    | 905 Bayleaf Court         |   |                      |
| •                                  | San Jose, California 9512 | 8 USA   | •                    |
|                                    |                           |   | ·                    |

| NAME OF SECOND IN      | IVENTOR:                                 | s been filed for this undersign   | ned inventor                          |  |  |  |
|------------------------|--|-----------------------------------|---------------------------------------|--|--|--|
| Cull Manne             |  | Zak Edson                         |                                       |  |  |  |
| Full Name:             | (First, Middle fif anyl. Fa              | mily Name (or Surname), and Suffi | x [if anv])                           |  |  |  |
| Inventor's Signature   |  |                                   |                                       |  |  |  |
|                        |  |                                   | 1.00                                  |  |  |  |
| Residence Campbe       | ll, California USA                       | Citizenship                       | USA                                   |  |  |  |
|                        | (City, State, Country)                   |                                   | (Country)                             |  |  |  |
|                        | Waterford Court                          | ·····                             |                                       |  |  |  |
| Ca                     | mpbell, California 95008 USA             |                                   |                                       |  |  |  |
|                        |  |                                   | •                                     |  |  |  |
| NAME OF THIRD INVE     | ENTOR:                                   | s been filed for this undersign   | ned inventor                          |  |  |  |
| Full Name:             |  | Steve Grove                       |                                       |  |  |  |
|                        | (First, Middle [if any], Fa              | mily Name (or Surname), and Suffi | x [if any])                           |  |  |  |
|                        |  |                                   |                                       |  |  |  |
|                        |  | i                                 | 100                                   |  |  |  |
| Residence San Jose     | e, California USA                        | Citizenship                       | <u> </u>                              |  |  |  |
|                        | (City, State, Country)                   |                                   | (Country)                             |  |  |  |
|                        | 2 El Rio Drive                           |                                   |                                       |  |  |  |
| Sai                    | n Jose, California 95125 USA             |                                   | •                                     |  |  |  |
| NAME OF FOURTH IN      | IVENTOR:                                 | s been filed for this undersign   | ned inventor                          |  |  |  |
| Full Name:             |  | drew Leigh Sandler                |                                       |  |  |  |
|                        | (First, Middle [if any], Fa              | mily Name (or Surname), and Suffi | x [if any])                           |  |  |  |
| Inventor's Signature   | ld the                                   | Date <u></u>                      | 124103                                |  |  |  |
| Outline Con Year       | California TICA                          | ()                                |                                       |  |  |  |
| Residence San Jose     | e, California USA (City, State, Country) | Citizenship                       | USIA<br>(Country)                     |  |  |  |
| Mailing Address 65     | Glen Eyfre Avenue, Apt. 5                | HEZ LYNHUR                        | ST WA-/                               |  |  |  |
|                        | n Jose, California 95125 USA             | SAN JOSE,                         | CA 95115                              |  |  |  |
|                        |  |                                   |                                       |  |  |  |
| NAME OF FIFTH INVE     | ENTOR:                                   | s been filed for this undersign   | ned inventor                          |  |  |  |
| Full Name:             |  |                                   |                                       |  |  |  |
| ,                      | (First, Middle [if any], Fai             | mily Name (or Surname), and Suffi | x [if any])                           |  |  |  |
| Inventor's Signature _ |  | Date                              | · · · · · · · · · · · · · · · · · · · |  |  |  |
|                        |  |                                   |                                       |  |  |  |
| Residence              | (C): 0: C                                | Citizenship                       |                                       |  |  |  |
| Mailing Address        | (City, State, Country)                   |                                   | (Country)                             |  |  |  |
|                        |  |                                   |                                       |  |  |  |
| Docket No. 3801P098    | <u> </u>                                 | 3-                                |                                       |  |  |  |



# Title 37, Code of Federal Regulations, Section 1.56 Duty to Disclose Information Material to Patentability.

examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information, which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by \$\$1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
  - (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
  - (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
  - (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of



### Appendix A

I hereby appoint with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith, BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, a firm including: Raj V. Abhyanker, Reg. No. 45,474; William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; Vincent H. Anderson, Reg. No. 54,962; Anthony H. Azure, Reg. No. 52,580; W. Thomas Babbitt, Reg. No. 39,591; Jordan M. Becker, Reg. No. 39,602; Todd M. Becker, Reg. No. 43,487; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Cory G. Claassen, Reg. No. 50,296; Thomas M. Coester, Reg. No. 39,637; Mirni D. Dao, Reg. No. 45,628; Stephen M. De Klerk, Reg. No. 46,503; Daniel M. De Vos, Reg. No. 37,813; Elena B. Dreszer, Reg. No. 55,128; Sanjeet Dutta, Reg. No. 46,145; Nathan P. Elder, Reg. No. 55,150; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; Adam Furst, Reg. No. 51,710; Angelo J. Gaz, Reg. No. 45,907; Andre M. Gibbs, Reg. No. 47,593; James Y. Go, Reg. No. 40,621; Jason R. Graff, Reg. No. 54,134; Arlen M. Hartounian, Reg. No. 52,997; Jeffery Scott Heileson, Reg. No. 46,765; James A. Henry, Reg. No. 41,064; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; Aslam A. Jaffery, Reg. No. 51,841; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Mark A. Kupanoff, Reg. No. 55,349; Steven Laut, Reg. No. 47,736; Suk S. Lee, Reg. No. 47,745; Gordon R. Lindeen III, Reg. No. 33,192; Jan Carol Little-Washington, Reg. No. 41,181; Joseph Lutz, Reg. No. 43,765; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. 48,095; Paul A. Mendonsa, Reg. No. 42,879; Jonathan S. Miller, Reg. No. 48,534; Heather M. Molleur, Reg. No. 50,432; Richard A. Nakashima, Reg. No. 42,023; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Philip A. Pedigo, Reg. No. 52,107; Marina G. Portnova, Reg. No. 45,750; Jon C. Reali, Reg. No. 54,391; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Kevin G. Shao, Reg. No. 45,095; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Edwin H. Taylor, Reg. No. 25,129; Lisa Tom, Reg. No. 52,291; Mark C. Van Ness, Reg. No. 39,865; Thomas A. Van Zandt, Reg. No. 43,219; Mark R. Vatuone, Reg. No. 53,719; Lester J. Vincent, Reg. No. 31,460; John P. Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; Chui-Kiu Teresa Wong, Reg. No. 48,042; and Norman Zafman, Reg. No. 26,250, my patent attorneys, and Chze Koon Chua, 53,831; Brent Vecchia, Reg. No. 48,011 and Lehua Wang, Reg. No. 48,023, my patent agents, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800; and James R. Thein, Reg. No. 31,710, my patent attorney, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.